

AMENDED IN ASSEMBLY APRIL 24, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1329**

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**Introduced by Assembly Member V. Manuel Pérez**

February 22, 2013

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An act to amend Sections 25135.9, 25161, 25162, 25178, 25186, 25200, and 25200.5 of, and to add Sections ~~25147.3~~, 25122.10, 25135.10, 25135.11, and 25150.9 to, the Health and Safety Code, relating to hazardous waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1329, as amended, V. Manuel Pérez. Hazardous waste: environmental justice.

(1) Existing law requires the California Environmental Protection Agency to develop a strategy for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice, as defined, and requires each board, department, and office within the agency to review its programs, policies, and activities and identify and address any gaps in its existing programs, policies, or activities that may impede the achievement of environmental justice.

Existing law requires the Department of Toxic Substances Control to prepare and adopt a state hazardous waste management plan by November 30, 1991, and to revise the plan at least once every 3 years. The state plan is required to be prepared in conjunction with, and take into account, certain local hazardous waste management plans.

This bill would instead require the department to prepare and adopt, by January 1, 2016, a state hazardous waste management plan to address the matter of environmental justice in the management of hazardous waste and to serve as a comprehensive and enforceable planning document for the state. The bill would specify the elements required to be included in the plan and would require the plan to be reviewed and revised, as specified. The bill would require the Director of Toxic Substances Control to approve the plan and to submit the plan to specified committees of the Legislature.

The bill would require the department to adopt regulations to ensure that minority populations and low-income populations are not disproportionately impacted by the adverse human health, social, economic, and environmental effects of the hazardous waste managed pursuant to the hazardous waste control law. Since a violation of the regulations adopted pursuant to the hazardous waste control law is a crime, the bill would impose a state-mandated local program. The bill would allow a person to commence a civil action on that ~~persons's~~ *person's* own behalf against a person who is alleged to be in violation of those regulations or alleging a failure by the department to perform an act or duty pursuant to specified provisions.

(2) Existing law prohibits a person from accepting, treating, storing, or disposing of hazardous waste unless the person holds a hazardous waste facilities permit or authorization, or is operating under a permit-by-rule or a grant of conditional authorization or conditional exemption. The department is required to issue a hazardous waste facilities permit to a facility that, in the judgment of the department, meets specified requirements. The permit is required to be issued for a fixed term and existing law specifies a procedure for the extension of that term. Existing law provides for the enforcement of the hazardous waste control law, including authorizing the department to issue a corrective action order or denying, suspending, or revoking a permit applied for or issued, if the applicant or permitholder has taken specified actions.

This bill would prohibit the department from issuing a hazardous waste facilities permit to *the operator of a hazardous waste landfill facility* or the operator of a hazardous waste facility ~~if that the~~ department finds ~~the facility~~ has not complied with a corrective action order; until the date when the director approves the state hazardous waste management plan specified above and submits the plan, as specified.

The bill would authorize, instead of require, the department to issue a hazardous waste facility permit that meets those requirements and would additionally require the facility to comply with the regulations specified above that the bill would require the department to adopt.

The bill would define the term “significant noncomplying operation” and would prohibit the department from issuing a hazardous waste facilities permit to a significant noncomplying operation. The bill would prohibit the owner or operator of a significant noncomplying operation from utilizing the existing procedure for the extension of the term of a permit and would authorize the department to revoke a permit, registration, or certificate if the permitholder or applicant engages in activities resulting in the applicant or permitholder meeting the conditions of a significant noncomplying operator.

(3) Existing law authorizes the department to grant interim status for the operator of certain hazardous waste facilities and prohibits the department from issuing interim status to a person meeting certain conditions.

The bill would additionally prohibit the department from granting interim status to a person who has ~~3 or more class I violations or a pending order for corrective action, other order or enforcement action, or settlement and would require the department to revoke the interim status of a person operating a hazardous waste facility if the facility meets those conditions specified above, has 3 or more class I violations, or a pending order for corrective action, other order or enforcement action, or settlement~~ *been classified as a significant noncomplying operation.*

(4) Existing law requires the department to post certain information on or before January 1 of each odd-numbered year on its Internet Web site.

This bill would revise the information required to be posted and would require the information to be searchable and translated into Spanish.

(5) Existing law prohibits a person from transporting hazardous waste, as specified, if the final destination of the transported hazardous waste is in a state other than this state or in a territory of the United States, unless the facility is issued a permit pursuant to the federal Resource Conservation and Recovery Act of 1976 or the facility is authorized by the state to accept that waste. Existing law requires the department to develop a specified database regarding hazardous waste shipped in and out of state.

This bill would additionally prohibit a person from taking that action if the final destination of the transported hazardous waste is ~~in Indian country, as defined,~~ *a domestic facility outside the jurisdiction of the state* unless those conditions apply to the facility, *including whether the facility is subject to a cooperative agreement, as specified*. The bill would revise the information required to be included in the department's database with regard to hazardous waste shipped in and out of ~~Indian country~~ *the state's jurisdiction*.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Legislature finds and declares all of the following:
- 2 (a) All hazardous waste landfill facilities and the majority of
- 3 other types of hazardous waste facilities in the state are located in
- 4 or near low-income Latino communities. The siting and operation
- 5 of the state's hazardous waste facilities near low-income Latino
- 6 communities disparately and adversely affects those communities,
- 7 in violation of both Section 11135 of the Government Code and
- 8 Title VI of the Civil Rights Act (42 U.S.C. Sec. 2000d and
- 9 following).
- 10 (b) Under Section 11135 of the Government Code and Title VI
- 11 of the Civil Rights Act, the Department of Toxic Substances
- 12 Control has a responsibility to prevent racial discrimination in the
- 13 siting and operation of hazardous waste disposal facilities.
- 14 (c) California needs a statewide hazardous waste disposal and
- 15 management plan to promote environmental justice, thereby
- 16 protecting the civil rights of minority residents in the communities
- 17 targeted for hazardous waste disposal facilities and other types of
- 18 hazardous waste management facilities.
- 19 (d) It is, therefore, the intent of the Legislature to establish a
- 20 moratorium on the issuance of permits to operators of hazardous
- 21 waste *landfill facilities or hazardous waste facilities* that have
- 22 failed to comply with a corrective action order issued by the

1 department until the department has developed a plan to reduce  
2 the prevalence of hazardous waste facilities in low-income  
3 communities.

4 ~~SEC. 2. Section 25117.3 is added to the Health and Safety~~  
5 ~~Code, to read:~~

6 ~~25117.3. “Indian country” has the same meaning as defined in~~  
7 ~~Section 1151 of Title 18 of the United States Code.~~

8 ~~SEC. 3.~~

9 ~~SEC. 2. Section 25122.10 is added to the Health and Safety~~  
10 ~~Code, to read:~~

11 25122.10. “Significant noncomplying operation” means a  
12 facility, an owner, or an operator that meets either of the following  
13 conditions:

14 (a) The facility, owner, or operator has been issued three separate  
15 class I violations by the department *within a five-year period*.

16 (b) The department finds that the facility, owner, or operator is  
17 in substantial deviation from the terms of a permit, order, including  
18 an order for corrective action, settlement document, corrective  
19 action, or other enforcement action issued pursuant to this chapter,  
20 because the facility, owner, or operator has failed to meet the  
21 requirements of the permit, order, settlement document, corrective  
22 action, or other enforcement action in a timely manner, or because  
23 the facility, owner, or operator has otherwise failed to undertake  
24 those actions specified by the department in the permit, order,  
25 settlement document, corrective action, or other enforcement  
26 action.

27 ~~SEC. 4.~~

28 ~~SEC. 3. Section 25135.9 of the Health and Safety Code is~~  
29 ~~amended to read:~~

30 25135.9. (a) For purposes of this section, the following  
31 definitions shall apply:

32 (1) “Environmental justice” means the fair treatment of people  
33 of all races, cultures, and incomes with respect to the development,  
34 adoption, implementation, and enforcement of environmental laws,  
35 regulations, and policies.

36 (2) “Hazardous waste landfill facility” means a hazardous waste  
37 facility that disposes of hazardous waste to land, as specified in  
38 Section 25174.1.

39 (b) The department shall, pursuant to this section and in  
40 accordance with the requirements of subdivision (d) of Section

25170, prepare and adopt a hazardous waste management plan that would address matters of environmental justice in the management of the state's hazardous waste. The state's hazardous waste management plan adopted pursuant to this section shall serve as a comprehensive and enforceable planning document for the state to ensure that minority populations and low-income populations are not disproportionately impacted by the adverse human health, social, economic, and environmental effects of hazardous waste management, including disposal.

(c) The state hazardous waste management plan shall be prepared and adopted by the department on or before January 1, 2016, shall be reviewed annually, and shall be revised to reflect new information at least once every three years.

(d) In preparing and adopting the state hazardous waste management plan, and in revising the plan thereafter, the department shall do all of the following:

(1) Publish the draft plan or the revised plan in English and Spanish and make it available to the public for review and comment at least three months before final adoption.

(2) Conduct workshops and at least six public hearings on the plan or the draft revised plan, one in the southern part of the state, one in the central part of the state, one in the northern part of the state, and one in each community that hosts a hazardous waste landfill facility, to solicit the views of the public, local government, regional councils of governments, and interested parties.

(3) Include in the final state hazardous waste management plan and in revisions of the plan, a summary of the comments received and the department's responses to those comments.

(e) The state hazardous waste management plan, and each revision of the plan, shall include, but need not be limited to, all of the following elements:

(1) An analysis of the hazardous waste streams produced in the state, an accounting of the volumes of hazardous waste produced in each county and region of the state, by type of waste, and estimates of the expected rates of hazardous waste production, by type of waste, during the next five years.

(2) An inventory of existing and planned hazardous waste facilities that handle, treat, recycle, dispose, or otherwise manage hazardous wastes produced in the state, which shall include all of the following:

1 (A) The racial and socioeconomic composition of populations  
2 within one-half-mile, one-mile, and five-mile radii around each  
3 existing or planned hazardous waste facility.

4 (B) A description of each facility and a full and complete  
5 summary of the facilities' compliance history, including, but not  
6 limited to, the enforcement actions taken by the department or any  
7 other state department or board that is within the California  
8 Environmental Protection Agency, and the penalties imposed  
9 pursuant to those enforcement actions.

10 (C) A determination of the capacity of each existing or planned  
11 hazardous waste facility to handle, treat, recycle, dispose, or  
12 otherwise manage the waste streams it is authorized to handle,  
13 treat, recycle, dispose, or otherwise manage.

14 (D) A description of the current progress and status of each  
15 planned hazardous waste facility in achieving operational status,  
16 including a timetable for becoming operational.

17 (3) An assessment of the need for additional hazardous waste  
18 facilities to manage the volumes of hazardous waste currently  
19 produced or which are expected to be produced during the next  
20 20 years.

21 (4) An identification of the areas or regions of the state where  
22 new or expanded capacity to manage hazardous wastes are needed  
23 and the types of facilities that should be sited and constructed.

24 (5) A description of the enforceable policies, programs,  
25 incentives, requirements, prohibitions, or other measures necessary  
26 to eliminate the disproportionate impact of hazardous waste  
27 management, including disposal, on low-income and minority  
28 populations, ~~including which may include~~ specific measures to  
29 reduce by 25 percent the amount of hazardous waste generated by  
30 2020, ~~using the year 2010 as a baseline within the state.~~

31 (6) A statement of goals, objectives, and policies currently in  
32 effect, or in the process of development, that address environmental  
33 justice in the siting and operation of hazardous waste facilities and  
34 the management of hazardous wastes during the next five years.

35 (7) A schedule of enforceable actions, including specific dates,  
36 for carrying out state, regional, and local actions to implement the  
37 state hazardous waste management plan.

38 (f) The director shall approve a hazardous waste management  
39 plan prepared in accordance with this section and shall submit the  
40 approved plan to the Assembly Committee on Environmental

1 Safety and Toxic Materials and the Assembly Committee on  
2 Budget.

3 ~~SEC. 5.~~

4 *SEC. 4.* Section 25135.10 is added to the Health and Safety  
5 Code, to read:

6 25135.10. (a) Notwithstanding Article 9 (commencing with  
7 Section 25200), the department shall not issue a hazardous waste  
8 facilities permit to *the operator of a hazardous waste landfill*  
9 *facility or the operator of a hazardous waste facility*—~~if that~~ the  
10 department finds the facility has not complied with an order issued  
11 pursuant to Section 25187.

12 (b) Subdivision (a) shall become inoperative on or after the date  
13 the director approves the state hazardous waste management plan  
14 pursuant to subdivision (f) of Section 25135.9 and the director  
15 submits the plan in accordance with that subdivision.

16 ~~SEC. 6.~~

17 *SEC. 5.* Section 25135.11 is added to the Health and Safety  
18 Code, to read:

19 25135.11. (a) (1) A person may commence a civil action on  
20 that person's own behalf against a person who is alleged to be in  
21 violation of the regulations adopted pursuant to Section 25150.9.

22 (2) A person may commence a civil action on that person's own  
23 behalf alleging a failure by the department to perform an act or  
24 duty required under Section 25135.9, 25135.10, 25150.9, or 25200  
25 and that is not otherwise a discretionary act or duty.

26 (b) The superior court shall have jurisdiction to enforce a  
27 regulation specified in paragraph (1) of subdivision (a), or to order  
28 the department to perform an act or duty specified in paragraph  
29 (2) of subdivision (a), and to apply any appropriate civil penalties.

30 (c) In an action brought pursuant to paragraph (2) of subdivision  
31 (a), the inquiry shall extend to the question of whether the  
32 department has proceeded without, or in excess of, its jurisdiction,  
33 and whether there was any prejudicial abuse of discretion. The  
34 court shall find that an abuse of discretion has been established if  
35 the department has not proceeded in the manner required by law,  
36 if the act or duty is not supported by the department's findings, or  
37 if the department's findings are not supported by the evidence. If  
38 it is claimed that the findings are not supported by the evidence,  
39 the court shall find that an abuse of discretion is established if the



1 court determines that the findings are not supported by the weight  
2 of the evidence.

3 ~~SEC. 7.~~

4 SEC. 6. Section 25150.9 is added to the Health and Safety  
5 Code, to read:

6 25150.9. Upon the approval of the state hazardous waste  
7 management plan pursuant to subdivision (f) of Section 25135.9,  
8 the department shall adopt regulations to implement the plan to  
9 ensure that minority populations and low-income populations are  
10 not disproportionately impacted by the adverse health, social,  
11 economic, and environmental effects of the hazardous waste  
12 managed pursuant to this chapter.

13 ~~SEC. 8.~~

14 SEC. 7. Section 25161 of the Health and Safety Code is  
15 amended to read:

16 25161. (a) The department may adopt and enforce those  
17 regulations, regarding a uniform program for hazardous waste  
18 transportation, that are necessary and appropriate to achieve  
19 consistency with the findings made by the Federal Highway  
20 Administration and the federal Department of Transportation  
21 pursuant to Chapter 51 (commencing with Section 5101) of Title  
22 49 of the United States Code.

23 (b) The department shall adopt and enforce all rules and  
24 regulations that are necessary and appropriate to accomplish the  
25 purposes of Section 25160.

26 (c) The department shall develop a database that tracks all  
27 hazardous waste shipped in and out of ~~state~~ *the state's jurisdiction*  
28 for handling, treatment, storage, disposal, or any combination  
29 thereof, which includes all of the following information:

30 (1) The ~~state, Indian country, or country~~ *jurisdiction* receiving  
31 the waste.

32 (2) Month and year of shipment.

33 (3) Type of hazardous waste shipped.

34 (4) The manner in which the hazardous waste was handled at  
35 its final destination, such as incineration, treatment, recycling, land  
36 disposal, or a combination thereof.

37 (d) The department shall include in the biennial report specified  
38 in Section 25178 all of the following information:

1 (1) The total volume in tons of hazardous waste generated in  
2 the state and shipped offsite for handling, treatment, storage,  
3 disposal, or any combination thereof.

4 (2) The total volume in tons of hazardous waste generated in  
5 the state and shipped in and out of the state for handling, treatment,  
6 storage, disposal, or any combination thereof, including all of the  
7 following information:

8 (A) ~~The state, Indian country, or country~~ *jurisdiction* receiving  
9 the hazardous waste.

10 (B) Month and year of shipment.

11 (C) Type of hazardous waste shipped.

12 (D) The manner in which the hazardous waste was handled at  
13 its final destination, such as incineration, treatment, recycling, land  
14 disposal, or a combination thereof.

15 ~~SEC. 9.~~

16 *SEC. 8.* Section 25162 of the Health and Safety Code is  
17 amended to read:

18 25162. (a) A person shall not transport hazardous waste on  
19 the highways of this state, or deliver to a railroad or vessel  
20 hazardous waste for transport if the final destination of the  
21 transported hazardous waste is a *domestic* facility ~~in Indian country,~~  
22 ~~in a state other than this state, or in a territory of the United States~~  
23 *outside the jurisdiction of the state*, unless one of the following  
24 applies:

25 (1) The facility has been issued a permit pursuant to subsection  
26 (c) or (g), or has been granted authority to operate pursuant to  
27 subsection (e) of Section 3005 of the federal act (42 U.S.C. Sec.  
28 6925) by either of the following:

29 (A) The United States Environmental Protection Agency.

30 (B) The state in which the facility is located, if the state has  
31 authorization to operate a hazardous waste program pursuant to  
32 Section 3006 of the federal act (42 U.S.C. Sec. 6926).

33 (2) The facility is authorized by the state or location in which  
34 it is located, pursuant to the applicable laws or regulations of that  
35 state or location, to accept the transported hazardous waste for  
36 transfer, handling, recycling, storage, treatment, or disposal.

37 (3) *The facility is subject to a cooperative agreement executed*  
38 *pursuant to Section 25198.3.*

39 (b) A person shall not transport hazardous waste on the highways  
40 of this state, or deliver to a railroad or vessel hazardous waste for

1 transport, if the final destination of the transported hazardous waste  
2 is a facility that is located on a site that has been listed on the  
3 National Priorities List established pursuant to Section 105 of the  
4 Comprehensive Environmental Response, Compensation, and  
5 Liability Act of 1980, as amended (42 U.S.C. Sec. 9605(a)(8)(B)).

6 (c) A person who knowingly transports or causes the  
7 transportation of, or who reasonably should have known that the  
8 person was causing the transportation of, hazardous waste in  
9 violation of subdivision (a) or (b) shall, upon conviction, be subject  
10 to the penalties specified in subdivision (a) of Section 25191.

11 (d) A person who knowingly delivers, or arranges the delivery  
12 of, hazardous waste to another person for transport in violation of  
13 subdivision (a) or (b) shall, upon conviction, be subject to the  
14 penalties specified in subdivision (a) of Section 25191.

15 (e) A person shall not transport hazardous waste that is subject  
16 to the requirements of Section 3017 of the federal act (42 U.S.C.  
17 Sec. 6938) on the highways of this state or deliver to a railroad or  
18 vessel any of this hazardous waste for transport, if the final  
19 destination of the transported hazardous waste is a foreign country,  
20 unless the shipment is in compliance with the applicable regulations  
21 adopted pursuant to Section 25150.2 and either of the following  
22 conditions is met:

23 (1) A copy of the foreign country's written consent to receive  
24 the hazardous waste, or a copy of the EPA Acknowledgement of  
25 Consent, as defined in Section 262. 51 of Title 40 of the Code of  
26 Federal Regulations, is attached to the manifest required by this  
27 article.

28 (2) The hazardous waste shipment is in compliance with the  
29 terms of an international agreement between the United States and  
30 the receiving foreign country, as provided in subsection (f) of  
31 Section 3017 of the federal act (42 U.S.C. Sec. 6938 (f)).

32 (f) A person who knowingly violates, or who reasonably should  
33 have known that the person was violating, subdivision (e) shall,  
34 upon conviction, be subject to the penalties specified in subdivision  
35 (a) of Section 25191.

36 ~~SEC. 10.~~

37 *SEC. 9.* Section 25178 of the Health and Safety Code is  
38 amended to read:

1     25178. On or before January 1 of each odd-numbered year, the  
2 department shall post on its Internet Web site and translate into  
3 Spanish, at a minimum, all of the following:

4     (a) The status of the regulatory and program developments  
5 required pursuant to legislative mandates.

6     (b) The status of the hazardous waste facilities permit program,  
7 that shall include all of the following information:

8         (1) A description of the final hazardous waste facilities permit  
9 applications received.

10        (2) A searchable list of final hazardous waste facilities permits  
11 issued to date.

12        (3) A searchable list of final hazardous waste facilities permits  
13 yet to be issued.

14        (4) A complete description of the reasons why the final  
15 hazardous waste facilities permits yet to be issued have not been  
16 issued.

17     (c) The status of the hazardous waste facilities siting program.

18     (d) The status of the hazardous waste abandoned sites program.

19     (e) A searchable list of enforcement actions taken by the  
20 department pursuant to this chapter and other enforcement actions  
21 relating to hazardous waste management. The list shall specify  
22 whether the violations have been corrected and shall include  
23 Internet Web links to inspection reports, draft orders, final orders,  
24 and enforcement actions taken by other agencies.

25     (f) A searchable list of significant noncomplying operations.

26     (g) Summary data on annual quantities and types of hazardous  
27 waste generated, transported, treated, stored, and disposed.

28     (h) Summary data regarding the onsite and offsite disposition  
29 of hazardous waste.

30     (i) Research activity initiated by the department.

31     (j) Regulatory action by other agencies relating to hazardous  
32 waste management.

33     (k) A revised listing of recyclable materials showing any  
34 additions or deletions to the list prepared pursuant to Section 25175  
35 that have occurred since the last report.

36     (l) Any other data considered pertinent by the department to  
37 hazardous waste management.

38     (m) The information specified in subdivision (c) of Section  
39 25161, paragraph (4) of subdivision (b) of Section 25197.1,  
40 subdivision (c) of Section 25354, and ~~Section 25334.7.~~ 25334.7.

(n) A status report on the cleanup of the McColl Hazardous Waste Disposal Site in Orange County.

~~SEC. 11.~~

SEC. 10. Section 25186 of the Health and Safety Code is amended to read:

25186. ~~(a)~~—The department may deny, suspend, or revoke a permit, registration, or certificate applied for, or issued, pursuant to this chapter in accordance with the procedures specified in Sections 25186.1 and 25186.2, if the applicant or holder of the permit, registration, or certificate, or in the case of a business concern, a trustee, officer, director, partner, or a person holding more than 5 percent of the equity in or debt liability of that business concern, has engaged in any of the following:

~~(1)~~

(a) A violation of, or noncompliance with, any of the following, if the violation or noncompliance shows a repeating or recurring pattern or may pose a threat to public health or safety or the environment:

~~(A)~~

(1) This chapter.

~~(B)~~

(2) Chapter 6.7 (commencing with Section 25280).

~~(C)~~

(3) ~~Chapter 6.8~~ Chapter 6.8 (commencing with Section 25300).

~~(D)~~

(4) The Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

~~(E)~~

(5) The federal act.

~~(F)~~

(6) The Hazardous Materials Transportation Act, as amended (49 U.S.C. Sec. 5101 et seq.).

~~(G)~~

(7) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

~~(H)~~

(8) The Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.).

~~(I)~~

(9) Any other equivalent federal or state statute or any requirement or regulation adopted pursuant thereto relating to the generation, transportation, treatment, storage, recycling, disposal or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in Section 25316, or a hazardous material, as defined in Section 353 of the Vehicle-Code. Code.

~~(2)~~

(b) The aiding, abetting, or permitting of a violation of, or noncompliance with, any of the following, if the violation or noncompliance shows a repeating or recurring pattern or may pose a threat to public health or safety or the environment:

~~(A)~~

(1) This chapter.

~~(B)~~

(2) Chapter 6.7 (commencing with Section 25280).

~~(C)~~

(3) Chapter 6.8 (commencing with Section 25300).

~~(D)~~

(4) The Porter-Cologne Water Quality Act (Division 7 (commencing with Section 13000) of the Water Code).

~~(E)~~

(5) The federal act.

~~(F)~~

(6) The Hazardous Materials Transportation Act, as amended (49 U.S.C. Sec. 5101 et seq.).

~~(G)~~

(7) The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

~~(H)~~

(8) The Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.).

~~(I)~~

(9) Any other equivalent federal or state statute or any requirement or regulation adopted pursuant thereto relating to the generation, transportation, treatment, storage, recycling, disposal or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in Section 25316, or a hazardous material, as defined in Section 353 of the Vehicle-Code. Code.

~~(3)~~

1 (c) A violation of, or noncompliance with, an order issued by  
2 a state or local agency or by a hearing officer or a court relating  
3 to the generation, transportation, treatment, storage, recycling,  
4 disposal or handling of a hazardous waste, as defined in Section  
5 25117, a hazardous substance, as defined in Section 25316, or a  
6 hazardous material, as defined in Section 353 of the Vehicle Code.

7 ~~(4)~~

8 (d) A misrepresentation or omission of a significant fact or other  
9 required information in the application for the permit, registration,  
10 or certificate, or in information subsequently reported to the  
11 department or to a local officer or agency authorized to enforce  
12 this chapter pursuant to Section 25180.

13 ~~(5)~~

14 (e) Activities resulting in a federal or state conviction that are  
15 significantly related to the fitness of the applicant or holder of the  
16 permit, registration, or certificate to perform the applicant's duties  
17 or activities under the permit, registration, or certificate. For the  
18 purposes of this subdivision, "conviction" means a plea or verdict  
19 of guilty or a conviction following a plea of nolo contendere. Any  
20 action that the department may take pursuant to this subdivision  
21 relating to the denial, suspension or revocation of a permit,  
22 registration, or certificate may be based upon a conviction for  
23 which any of the following has occurred:

24 ~~(A)~~

25 (1) The time for appeal has elapsed.

26 ~~(B)~~

27 (2) The judgment of conviction has been affirmed on appeal.

28 ~~(C)~~

29 (3) Any order granting probation is made suspending the  
30 imposition of sentence, notwithstanding a subsequent order  
31 pursuant to Section 1203.4 of the Penal Code permitting that person  
32 to withdraw the person's plea of guilty, and to enter a plea of not  
33 guilty, or setting aside the verdict of guilty, or dismissing the  
34 accusation, information, or indictment.

35 ~~(6)~~

36 (f) Activities resulting in the revocation or suspension of a  
37 license, permit, registration or certificate held by the applicant or  
38 holder of the permit, registration or certificate or, if the applicant  
39 or holder of the permit, registration, or certificate is a business  
40 concern, by a trustee, officer, director, partner, or a person holding

1 more than 5 percent of the equity in, or debt liability of that  
2 business concern relating to, the generation, transportation,  
3 treatment, storage, recycling, disposal, or handling of a hazardous  
4 waste, as defined in Section 25117, a hazardous substance, as  
5 defined in Section 25316, or a hazardous material, as defined in  
6 Section 353 of the Vehicle Code.

7 ~~(7)~~

8 (g) Activities resulting in the applicant or permitholder meeting  
9 the definition of a significant noncomplying operation.

10 ~~(b) The department shall revoke the interim status of a person~~  
11 ~~operating a hazardous waste facility pursuant to Section 25200.5~~  
12 ~~if the facility is subject to any of the following actions:~~

13 ~~(1) Denial of a hazardous waste facilities permit.~~

14 ~~(2) Suspension, revocation, or termination of a hazardous waste~~  
15 ~~facilities permit.~~

16 ~~(3) Termination of a grant of interim status.~~

17 ~~(4) Three or more notices of a class I violation.~~

18 ~~(5) A pending corrective action order, or other order or~~  
19 ~~enforcement action, or a settlement.~~

20 ~~SEC. 12.~~

21 *SEC. 11.* Section 25200 of the Health and Safety Code is  
22 amended to read:

23 25200. (a) (1) The department may issue hazardous waste  
24 facilities permits to use and operate one or more hazardous waste  
25 management units at a facility that in the judgment of the  
26 department meet all of the following requirements:

27 (A) Meet the building standards published in the California  
28 Building Standards Code relating to hazardous waste facilities.

29 (B) Comply with the regulations adopted pursuant to Section  
30 25150.9.

31 (C) Comply with the other standards and requirements adopted  
32 pursuant to this chapter.

33 (2) The department shall impose conditions on each hazardous  
34 waste facilities permit specifying the types of hazardous wastes  
35 that may be accepted for transfer, storage, treatment, or disposal.  
36 The department may impose any other condition on a hazardous  
37 waste facilities permit that is consistent with the intent of this  
38 chapter.

39 (3) The department shall not issue a hazardous waste facilities  
40 permit to a significant noncomplying operation.



1 (b) The department may impose, as a condition of a hazardous  
2 waste facilities permit, a requirement that the owner or operator  
3 of a hazardous waste facility that receives hazardous waste from  
4 more than one producer comply with an order of the director that  
5 prohibits the facility operator from refusing to accept a hazardous  
6 waste based on geographical origin that is authorized to be accepted  
7 and may be accepted by the facility without extraordinary hazard.

8 (c) (1) (A) A hazardous waste facilities permit issued by the  
9 department shall be for a fixed term, which shall not exceed 10  
10 years for a land disposal facility, storage facility, incinerator, or  
11 other treatment facility.

12 (B) Except as provided in subparagraph (C), before the fixed  
13 term of a permit expires, the owner or operator of a facility  
14 intending to extend the term of the facility's permit shall submit  
15 a complete Part A application for a permit renewal. At any time  
16 following the ~~submittal~~ *submission* of the Part A application, the  
17 owner or operator of a facility shall submit a complete Part B  
18 application, or any portion thereof, as well as any other relevant  
19 information, as and when requested by the department. To the  
20 extent not inconsistent with the federal act, when a complete Part  
21 A renewal application, and any other requested information, has  
22 been submitted before the end of the permit's fixed term, the permit  
23 is deemed extended until the renewal application is approved or  
24 denied and the owner or operator has exhausted all applicable  
25 rights of appeal.

26 (C) If the owner or operator of the hazardous waste facility is  
27 a significant noncomplying operation, the owner or operator may  
28 not apply to extend the term of the permit pursuant to subparagraph  
29 (B).

30 (D) This section does not limit or restrict the department's  
31 authority to impose any additional or different conditions on an  
32 extended permit that are necessary to protect human health and  
33 the environment.

34 (E) In adopting new conditions for an extended permit, the  
35 department shall follow the applicable permit modification  
36 procedures specified in this chapter and the regulations adopted  
37 pursuant to this chapter.

38 (F) When prioritizing pending renewal applications for  
39 processing and in determining the need for any new conditions on

1 an extended permit, the department shall consider any input  
2 received from the public.

3 (2) The department shall review each hazardous waste facilities  
4 permit for a land disposal facility five years after the date of  
5 issuance or reissuance, and shall modify the permit, as necessary,  
6 to assure that the facility continues to comply with the currently  
7 applicable requirements of this chapter and the regulations adopted  
8 pursuant to this chapter.

9 (3) This subdivision does not prohibit the department from  
10 reviewing, modifying, or revoking a permit at any time during its  
11 term.

12 (d) (1) When reviewing an application for a permit renewal,  
13 the department shall consider improvements in the state of control  
14 and measurement technology as well as changes in applicable  
15 regulations.

16 (2) Each permit issued or renewed under this section shall  
17 contain the terms and conditions that the department determines  
18 necessary to protect human health and the environment.

19 (e) A permit issued pursuant to the federal act by the  
20 Environmental Protection Agency in the state for which no state  
21 hazardous waste facilities permit has been issued shall be deemed  
22 to be a state permit enforceable by the department until a state  
23 permit is issued. In addition to complying with the terms and  
24 conditions specified in a federal permit deemed to be a state permit  
25 pursuant to this section, an owner or operator who holds that permit  
26 shall comply with the requirements of this chapter and the  
27 regulations adopted by the department to implement this chapter.

28 ~~SEC. 13.~~

29 *SEC. 12.* Section 25200.5 of the Health and Safety Code is  
30 amended to read:

31 25200.5. (a) Except as provided in Sections 25200.7 and  
32 25200.9, a person who desires to continue the use or operation of  
33 a hazardous waste facility that was in existence on November 19,  
34 1980, or that was in existence on the effective date of any statute  
35 or regulation that subjected that facility to hazardous waste  
36 facilities permit requirements under this chapter, pending the  
37 review and decision of the department on the permit application,  
38 may be granted interim status by the department if the person has  
39 made application for a permit pursuant to Section 25200, or has  
40 made application pursuant to Section 25201.6, and, if treating a

1 hazardous waste regulated pursuant to the federal act, has complied  
2 with the requirements of subsection (a) of Section 6930 of Title  
3 42 of the United States Code.

4 (b) The person operating under an interim status pursuant to  
5 this section shall not do any of the following acts:

6 (1) Treat, store, transfer, or dispose of hazardous wastes that  
7 are not specified in Part A of the permit application.

8 (2) Employ processes not described in Part A of the permit  
9 application.

10 (3) Exceed the design capacities specified in Part A of the permit  
11 application.

12 (c) A facility operating under interim status is not subject to  
13 civil or criminal penalties for operating without a permit, but is  
14 otherwise subject to this chapter and the rules, regulations,  
15 standards, and requirements issued or adopted pursuant to this  
16 chapter. Interim status may be granted subject to conditions that  
17 the department deems necessary to protect public health or the  
18 environment. Interim status shall not be valid beyond the date of  
19 the decision of the department on the permit application.

20 (d) The department shall not grant interim status to a person to  
21 operate a hazardous waste facility if the facility has been subject  
22 to any of the following actions:

23 (1) Denial of a hazardous waste facilities permit.

24 (2) Suspension, revocation, or termination of a hazardous waste  
25 facilities permit.

26 (3) Termination of a grant of interim status.

27 ~~(4) Three or more notices of a class I violation.~~

28 ~~(5) A pending corrective order, other order or enforcement~~  
29 ~~action, or a settlement.~~

30 *(4) Classification as a significant noncomplying operation.*

31 (e) For purposes of this section, “Part A of the permit  
32 application” has the same meaning as defined in Section 66151 of  
33 Title 22 of the California Code of Regulations, as that section read  
34 on January 1, 1988.

35 (f) A land disposal facility that lost interim status pursuant to  
36 paragraph (2) or (3) of subsection (e) of Section 6925 of Title 42  
37 of the United States Code is deemed to have lost interim status  
38 granted under this section to operate a facility managing hazardous  
39 waste regulated pursuant to the federal act.

(g) The termination date for interim status for a land disposal facility that is in existence on the effective date of a statute or the regulation adopted pursuant to that statute that subjects the facility to hazardous waste facilities permit requirements under this chapter, and that is granted interim status under this section, is the date 12 months after the date on which the facility first becomes subject to the hazardous waste facilities permit requirements, unless one of the following applies:

(1) Part A of the facility's permit application specifies that only non-RCRA hazardous waste will be disposed of at the facility, in which case the facility is subject to the termination date specified in Section 25200.11, if the facility is subject to Section 25200.11.

(2) The owner or operator of the facility does both of the following:

(A) Applies for a final determination regarding the issuance of a hazardous waste facilities permit under Section 25200 for the facility before the date 12 months after the date on which the facility first becomes subject to the hazardous waste facilities permit requirements.

(B) Certifies that the facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

(h) The termination date for interim status for an incinerator facility that submitted an application for a hazardous waste facilities permit before November 8, 1984, is November 8, 1989, unless one of the following applies:

(1) Part A of the facility's permit application specifies that only non-RCRA hazardous waste will be incinerated at the facility, in which case the facility is subject to the termination date specified in Section 25200.11, if the facility is subject to Section 25200.11.

(2) The owner or operator of the facility applied for a final determination regarding the issuance of a hazardous waste facilities permit under Section 25200 for the facility on or before November 8, 1986.

(i) The termination date for interim status for any facility, other than a facility specified in subdivision (g) or (h), that submitted an application for a hazardous waste facilities permit before November 8, 1984, is November 8, 1992, unless one of the following applies:

(1) Part A of the facility's permit application specifies that only non-RCRA hazardous waste will be transferred, treated, or stored

1 at the facility, and the facility is in compliance with its Part A  
2 application, in which case the facility is subject to the termination  
3 date specified in Section 25200.11, if the facility is subject to  
4 Section 25200.11.

5 (2) The owner or operator of the facility applied for a final  
6 determination regarding the issuance of a hazardous waste facilities  
7 permit under Section 25200 for the facility on or before November  
8 8, 1988.

9 (j) On or before July 1, 1993, the department shall take final  
10 action on each application for a hazardous waste facilities permit,  
11 to be issued pursuant to Section 25200 that was filed before  
12 November 8, 1984, for an offsite hazardous waste facility subject  
13 to subdivision (i), and not subject to Section 25200.7 or 25200.11.  
14 In taking final action pursuant to this subdivision, the department  
15 shall either issue the hazardous waste facilities permit or make a  
16 final denial of the application.

17 (k) (1) Notwithstanding any other provision of law or  
18 regulation, except as provided in paragraph (2), a hazardous waste  
19 facility operating pursuant to this section shall comply with the  
20 requirements of Article 4 (commencing with Section 66270.40)  
21 of Chapter 20 of Division 4.5 of Title 22 of the California Code  
22 of Regulations.

23 (2) The requirements of paragraph (1) do not apply to an inactive  
24 facility that is no longer accepting offsite hazardous waste and that  
25 has notified the department of its intent to close.

26 ~~SEC. 14.~~

27 *SEC. 13.* The provisions of this act are severable. If any  
28 provision of this act or its application is held invalid, that invalidity  
29 shall not affect other provisions or applications that can be given  
30 effect without the invalid provision or application.

31 ~~SEC. 15.~~

32 *SEC. 14.* No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 the only costs that may be incurred by a local agency or school  
35 district will be incurred because this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the penalty  
37 for a crime or infraction, within the meaning of Section 17556 of  
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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